

**REGULAR**

**NUMBER:** 76.15

**TITLE:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE BUSINESS LICENSE ORDINANCE BY AMENDING SECTIONS 16.01 AND 16.03 AND DELETING SECTION 16.02 OF CHAPTER 1, TITLE III OF THE MILPITAS MUNICIPAL CODE

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of October 2, 2012, upon motion by Councilmember Polanski and was adopted (second reading) by the City Council at its meeting of October 16, 2012, upon motion by Vice Mayor McHugh. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

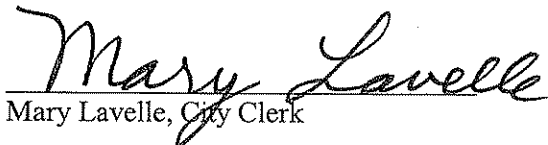
AYES: (5) Mayor Esteves, Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

NOES: (0) None

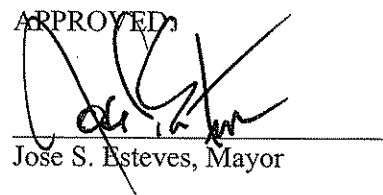
ABSENT: (0) None

ABSTAIN: (0) None

**ATTEST:**

  
Mary Lavelle, City Clerk

**APPROVED:**

  
Jose S. Esteves, Mayor

**APPROVED AS TO FORM:**

  
Michael J. Ogaz, City Attorney

## **RECITALS AND FINDINGS:**

**WHEREAS**, the City wishes to update the administrative payment receipt and accounting provisions of the business license tax collection; and

**WHEREAS**, the amendments contained in this Ordinance shall not impose or increase any existing business license taxes; and

**WHEREAS**, the City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

**NOW, THEREFORE**, the City Council of the City of Milpitas does ordain as follows:

### **SECTION 1. RECORD AND BASIS FOR ACTION**

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

### **SECTION 2. AMENDMENT OF SECTION 16 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE**

Section 16.01 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby amended and restated in its entirety to read as follows:

#### **III-1-16.01 - How and When Payable**

Unless otherwise specifically provided, all annual license taxes under the provisions of this Chapter shall be due and payable in advance on the first day of January of each year; provided that license taxes covering new operations or individuals (other than for operations or individuals subject to the license tax rate set forth in Subsection III-1-17-01-2.1, Subsection III-1-17-01-3, Subsection III-1-17-01-4, and Subsection III-1-17.04) may be pro-rated on a quarterly basis as reasonably determined by License Tax Collector for the balance of the license period. Notwithstanding the foregoing, any minimum prorated amount shall be no less than thirty-five dollars.

16.01-1 Except for operations or individuals subject to the license tax rate set forth in Subsection III-1-17-01-2.1, licenses shall be issued on a calendar year basis, effective upon the date of issue and (unless sooner terminated pursuant to law) shall expire on December 31 of each year.

16.01-2 License taxes shall be due and payable in advance upon the date of issue for the full license period and license renewals shall not be subject to proration.

### **SECTION 3. REPEAL OF AMENDMENT OF SECTION 16.02 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE**

Section 16.02 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby repealed in its entirety.

**SECTION 4. AMENDMENT OF SECTION 16.03 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE**

Section 16.03 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby amended and restated in its entirety to read as follows:

**III-1-16.03 - Tax Paid in Advance of License Expiration**

The City of Milpitas shall not process license taxes paid for any renewed license more than 30 days in advance of the license expiration date.

**SECTION 5. REPEAL OF AMENDMENT OF SECTION 17.07 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE**

Section 17.07 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby repealed in its entirety.

**SECTION 6. SEVERABILITY**

In the event any section or portion of this Ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

**SECTION 7. EFFECTIVE DATE AND POSTING**

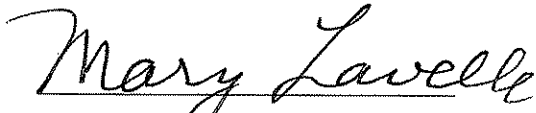
In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

**CERTIFICATION OF CITY CLERK**

**ORDINANCE NO. 76.15**

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. 76.15 of the City of Milpitas, that this Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of the City Council held on the 16<sup>th</sup> day of October 2012, and that the Ordinance was published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 22<sup>ND</sup> day of October, 2012.

A handwritten signature in cursive script that reads "Mary Lavelle". The signature is written in dark ink and is positioned above the printed name and title.

Mary Lavelle

Milpitas City Clerk